

Johnny Esquivel # 1093699
Name and Inmate Booking Number

Lovelock Correctional Center
Place of Confinement

1200 Prison Road
Mailing Address

Lovelock, NV 89419
City, State, Zip Code

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Johnny A. Esquivel,
Plaintiff

vs.

- (1) Kenneth Williams,
(2) Erin Parks,
(3) D. Hultenschmidt,
(4) Dana Marks,
(5) John-Jane Doe 1-10,
Defendant(s).

Case No. _____
(To be supplied by Clerk of Court)

CIVIL RIGHTS COMPLAINT
BY AN INMATE

- ☒ Original Complaint
☐ First Amended Complaint
☐ Second Amended Complaint

☒ Jury Trial Demanded

A. JURISDICTION

- 1) This Court has jurisdiction over this action pursuant to:
☒ 28 U.S.C. § 1343(a)(3); 42 U.S.C. § 1983
☐ 28 U.S.C. § 1331; *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971)
☐ Other: _____
- 2) Institution/city where Plaintiff currently resides: Lovelock Correctional Center, Lovelock
- 3) Institution/city where violation(s) occurred: Lovelock Correctional Center, Lovelock

B. DEFENDANTS

1. Name of first Defendant: Kenneth Williams. The first Defendant is employed as:
Medical Director of N.D.O.C. at Nevada Department of Corrections.
(Position of Title) (Institution)
2. Name of second Defendant: Erin Parks. The second Defendant is employed as:
Director of Nursing at Lovelock Correctional Center.
(Position of Title) (Institution)
3. Name of third Defendant: D. Hultenschmidt. The third Defendant is employed as:
Medical Department staff at Lovelock Correctional Center.
(Position of Title) (Institution)
4. Name of fourth Defendant: Dana Marks. The fourth Defendant is employed as:
Primary Care provider (Inst. Dr.) at Lovelock Correctional Center.
(Position of Title) (Institution)
5. Name of fifth Defendant: Def. John Kane Doe 1-10. The fifth Defendant is employed as:
Medical Staff at L.C.C. at Lovelock Correctional Center.
(Position of Title) (Institution)

If you name more than five Defendants, answer the questions listed above for each additional Defendant on a separate page.

C. NATURE OF THE CASE

Briefly state the background of your case.

Plaintiff Johnny Esquivel (hereinafter Plaintiff) is 40 years old and has been incarcerated in the Nevada Department of Corrections (henceforth N.D.O.C.) for the last 12 years. Plaintiff has a history of severe back and intestinal problems that started in 2019, at Lovelock Correctional Center (henceforth L.C.C.). These intestinal problems started off as lower back pain; to which has increased in severity of pain and symptoms over time. These symptoms Plaintiff consistently and periodically suffers from is

Nature of the Case

painful cramps, bloating, stabbing pain, a growing mass in the abdomen, difficulty breathing, unusual and bloody stools. Along the way, the Plaintiff has developed a *H. pylori* bacteria infection - to which can be associated with ulcers.

Plaintiff's symptoms and severe pain has caused a decline in Plaintiff's life; by causing inconsistent sleep due to pain and discomfort, weight gain due to lack of mobility. Also anxiety and depression causing emotional distress. This is due to Plaintiff's never ending suffering.

Over the years some treatment has been provided to Plaintiff; consistence of time between waiting and actual treatment is far between. But no alleviation of finding of the actual cause for his symptoms has been found. Plaintiff has claimed to have a history of undocumented Ulcers and can be a link of possible causes of current condition.

Approximately on February 5, 2023, Plaintiff was made aware of trace amounts of blood in his stool by the Medical Department at L.C.C. Plaintiff was informed he would be seen by a Gastrointestinal (henceforth G.I. Specialist) Specialist.

Plaintiff was made aware that he was scheduled on 02/19/24 to see a G.I. specialist; but was canceled due to safety and security

because of Plaintiff knowing the date of the appointment. To which the Plaintiff did not. Plaintiff still has yet to be seen by a specialist and is still suffering. The Defendants are fully aware of Plaintiff's condition and choose to Deny/Delay medical care to Plaintiff for his serious medical need.

Plaintiff brings forth this complaint for the violation of his 8th Constitutional right.

Plaintiff files this complaint against Defendant's in both their "official and "Individual" capacity.

Statement of Facts

- 1) Plaintiff has a history of intestinal problems that started at L.C.C. This intestinal problem started to develop after a work related injury of the back. This was while the Plaintiff was working in the institutions culinary - approximately March of 2019.
- 2) The history of the progression of intestinal problems the Plaintiff has had to suffer, to which over the course of years; Plaintiff has made the Defendants of the Medical Department and other staff at L.C.C. fully aware of Plaintiff's progressive and severe, serious medical need.
- 3) The following is a brief history of plaintiff's progression of intestinal problems to the present day of delay of medical care for a serious medical need.
- 4) On March 17, 2019 Plaintiff submitted a Medical Request (henceforth a medical kite) stating being seen by the Medical Department at L.C.C. on March 7, 2019. Reporting lower back injury and given I.B. profen and muscle rub. Plaintiff also expressed in the medical kite that he still is suffering from back pain, to which has caused Plaintiff to be unable to have a good night's rest.
- 5) Plaintiff was informed of being scheduled, but with no staff identifying signature of who responded to the medical kite.

- 6) On May 23, 2019 Plaintiff submitted a medical Kite following up back pain due to a work related injury, to which caused Plaintiff "allot of pain. Again he requested to see a doctor.
- 7) Plaintiff received a response that he will be "scheduled" with no staff indentifying signature.
- 8) On July 2, 2019 Plaintiff submitted a medical kite requesting to see a Doctor as soon as possible. Stating Plaintiff is in "serious pain in the hip and back;" Plaintiff requests X-ray and medication for the pain, "as things are getting worse."
- 9) Plaintiff received a response that he will be "sceduled" with no staff indentifying signature.
- 10) On November 3, 2019 Plaintiff submitted a medical Kite to mental health department stating, "Plaintiff was dealing with depression and anxiety and wanted to speak with somebody."
- 11) Plaintiff was scheduled and seen.
- 12) Plaintiff has seen mental health multiple times throughout the years - this was due to his anxiety and depression. The mental health Professional (primarily a Dr. Caldwell-Barr) has concluded that his mental state is caused from his constant severe intestinal and back pain; a non-psychological condition. To which

causes Plaintiff a decline in his quality of life. Throughout the years his symptoms have continued to decline his way of life; by decreasing productivity, socialization, mobility and exercise. Continuing to cause depression and anxiety and emotional distress.

- 13) On November 18, 2019 Plaintiff submitted a medical kite requesting to see a Dr. Adamson to go over the results of a Urine Analysis, (U.A.) blood work and X-ray done on November 9, 2019. On finding out the route of the problem.
- 14) Plaintiff receives another response concerning the medical kite approximately December 12, 2019 (by date on medical kite) responded by a Nurse Lisa. The response stated that the labs and X-rays were normal.
- 15) On December 16, 2019 Plaintiff submitted a medical request stating that even though the tests and X-rays were normal. Plaintiff was still in "serious pain" in the lower back and right side of ribs/stomach. Plaintiff wanted to inquire the Doctor about what step is next in treating and discovering the root cause of the pain.
- 16) Plaintiff received a response stating that, "you will be scheduled" - with no staff identifying signature.
- 17) Plaintiff's progression of symptoms has

increased even further degrading his quality of life by the severe pain and symptoms. For on December 29, 2019 Plaintiff submitted a medical kite following up stating, "having a hard time breathing, chest pain, hip and back pain. Also stating the symptoms are getting worse and wanting to see the Doctor. For Plaintiff is in "serious pain" and the I.B. profen does not help with the pain.

18) Plaintiff receives a response with a unidentifiable signature stating that, "Plaintiff will receive x-rays when the x-ray machine is fixed."

19) During the year of 2019 Plaintiff remembers being prescribed Prednisone steroids (multiple times), and also I.B. profen - to which was in-effective to deal with Plaintiff's severe pain and symptoms.

20) On July 7, 2020 Plaintiff submits an Inmate Request (henceforth a kite) to a "Garret", the acting Warden at the time. Plaintiff was looking for help, for he was going through a "serious medical situation." Plaintiff believing that he has Cancer or "something seriously wrong with me," because of pain 24/7 and a growing mass on the Upper Right Quadrant (U.R.Q.) of the abdomen. Also stating that he has not been diagnosed with any condition.

With dates of showing up for Doctor appointments on 3/16/20, 3/27/20, and 4/23/20 and not being seen by a doctor.

- 21) Plaintiff received a response from Garrett asking "when was your last kite, the dates were from months ago and we we now have a Doctor on Tuesdays and Wednesdays.
- 22) On July 7, 2020 Plaintiff sent another kite to Garrett in response to the last kite Plaintiff sent to him. Plaintiff informed Defendant that he wrote on 6/1/20 and 7/1/20 and has not heard back from medical. Plaintiff states that "his condition is becoming worse and believes it could easily be diagnosed by an X-ray and/or a C.T. scan.
- 23) Plaintiff never received a response from defendant Garrett; but a response stamped by the medical department on July 5, 2020 and a response of "approved" but in the wrong area. There was no staff identifying signature.
- 24) On January 10, 2021 Plaintiff sent a Kite to Garrett, asking for his assistance in the matter again. Because of still having chest pain, sharp pain in mid-section and rapid heart burn. Attached with prior kites to remind Defendant. Plaintiff was trying to have Defendant help with the medical department regarding Plaintiff's medical

problem; because of his 8th Amendment right being violated, for not being provided adequate medical care.

25) On April 29, 2021 Plaintiff was transported to Pershing County Hospital for an Ultrasound.

26) On May 2, 2021 Plaintiff sent a medical kite to request an appointment to go over the results of the Ultrasound with Dr. Marks. Also still waiting to be seen by the Doctor since the last medical kite.

27) Plaintiff received a response from Dr. Marks (Defendant) stating Ultrasound is normal. Kidneys, pancreas, gall bladder and liver were seen and all appear normal.

28) On November 11, 2021 Plaintiff had a medical appointment with Nursing. Plaintiff was seen by two Nurses - a Nurse Sarah and a Jane Doe. Plaintiff informed them of his history of undocumented Ulcer problem. Plaintiff requested Flomididin. They gave him a dose of Gerrylanta to see if it helped with the pain. To which it didn't. Plaintiff also tried requesting Anti-biotics to help aid the healing of the Ulcer and intestinal damage.

29) On November 21, 2021 Plaintiff submitted a medical kite informing what happened on November 11, 2021. Plaintiff did receive the Flomitidine to help aid the acid reflux and

heart burn. But did not receive the Anti-biotics to help aid in the healing of the Ulcers. Plaintiff was supposed to receive them after the Doctors approval. Plaintiff requests the Anti-biotics to be ordered for him.

30) Plaintiff received a response that "M.D. did not approve" Anti-biotics by a Sarah (Defendant).

31) On February 6, 2022 Plaintiff submitted a medical Kite requesting for an appointment to be made to see the Doctor (referring to Defendant Marks). Not a Nurse who is not permitted to perscribe medication that Plaintiff needs. Plaintiff is expressing that he still is suffering from painful cramps, bloating/abdominal swelling, chest pain, difficulty breathing and "unusual stools". Also that Plaintiff has been dealing with these symptoms for over 2 years.

32) The Plaintiffs' increasing symptoms to this point has for the last 2 years caused a decline in Plaintiffs quality of life. By decreasing productivity, socialization, mobility and exercise. Which has been caused by the severe pain. Which has increased Plaintiffs depression and anxiety. Furthering Plaintiffs emotional distress.

33) Plaintiff's symptom of "unusual stools" has increased over time frame. From starting off

as a more intensified need of using the restroom and at times very uncomfortable. The stool itself can be described as at times watery (as diarrhea) and at times black and tarry.

34) Plaintiff received another response from the Kite sent on February 6, 2022 with a response by defendant Marks stating "I have seen you twice for these symptoms and we are continuing to monitor your condition."

35) On March 29, 2022 Plaintiff submitted a medical request stating that due to a diagnosis of *H. pylori* infection (otherwise known as *Helicobacter pylori*), Plaintiff has received a treatment of Anti-Biotics, But symptoms have partially subsided, and Plaintiff requests a slight change to treatment plan. A) Be placed on a Gluten free diet B) Be prescribed Gerilanta in order to counter-act the bloating, acid reflux and stomach cramping.

36) Plaintiff never received a response to the medical Kite.

37) On June 27, 2022 Plaintiff submitted a medical Kite, asking about the results of the *H. pylori* breath follow up test. This test was done on May 27, 2022. Plaintiff requests

to discuss the symptoms he was still suffering from with Defendant Marks. For there was still a mass growing in Plaintiff's R.U.Q. (otherwise known as Right Upper Quadrant), pressure, cramps, pain in the R.U.Q. to the R.L.Q. (Right Lower Quadrant), trouble breathing and unusual stools.

38) Plaintiff receives a response for the medical kite stating "your result is negative," with no staff identifying signature.

39) Plaintiff believes that his infection of *H. pylori* was a cause of Plaintiff's untreated and increasing symptoms of untreated ulcers. For Plaintiff's symptoms increased even more. For *H. pylori* stated in 2019 current medical diagnosis of treatment (Fifty Third edition) on pg. 592; "*H. pylori* infection appears to be necessary co-factor for the majority of duodenal and gastric ulcers...." Along with "The prevalence of *H. pylori* infection in duodenal ulcer patients is 75-90%."

40) There also becomes the risk factor of developing future severe and deadly medical conditions such as intestinal cancer.

41) On July 15, 2022 Plaintiff submitted a medical kite for an appointment with Defendant Marks, and again to be placed on the gluten free diet. Also, even though

Plaintiff was treated for *H. pylori*, his symptoms still persisted. Plaintiff expresses he is still suffering from swelling, pain and cramps in L.U.Q. (otherwise known as Left upper quadrant) to R.U.Q., trouble breathing and unusual stools.

42) Plaintiff never received a response to the medical kite.

43) On September 7, 2022, Plaintiff submitted a medical kite referring to the kite prior and still have not heard back from medical. Asking what date and time will see the Doctor (Referring to Defendant Marks), Plaintiff again states he is suffering from swelling, pain and cramps in L.U.Q. to R.U.Q., trouble breathing and unusual stools. Bloating and pain also has now developed in the R.L.Q. to groin.

44) Plaintiff received a response stating, "Forwarded to Dr. Marks." There was a staff signature which is not legible.

45) Plaintiff received another response to the medical kite from September 7, 2022 stating "I have seen you several times for these complaints and symptoms with an extensive work up and multiple attempts of treating them and given that they are a chronic problem you will be seen again for them

as soon as we are able."

46) On December 6, 2022 Plaintiff submitted a medical kite; asking about the results of the blood work and stool samples that Plaintiff turned in approximately two weeks prior to the kite.

47) Plaintiff never received a response to the medical kite.

48) On December 22, 2022 Plaintiff sent a medical kite regarding not receiving a response on the stool samples and blood work. Also, the need to see the Doctor to go over the results and discuss the treatment plan, and the next steps to be taken in order to diagnose Plaintiff's disorder. Again Plaintiff expresses "As my symptoms continue to cause me serious pain and discomfort."

49) Plaintiff never received a response to the medical kite.

50) On February 5, 2023 Plaintiff submitted a medical kite to defendant Parks informing her that the medical kites sent on 12/6/22 and 12/22/22 have not been responded to. Plaintiff informed Defendant of turning in stool samples and having blood work in November 2022, due to ongoing Chronic G.I. disorder. Plaintiff wants to see defendant Marks to go over the test results and discuss the treatment plan.

- 51) Plaintiff states within the medical kite that he is still suffering from swelling, pain and cramps in L.V.Q. to R.V.Q., trouble breathing and unusual stools. At the end of the kite Plaintiff states "Please Help."
- 52) Plaintiff receives a response stating, "Blood test normal and stool test is positive for trace amounts of blood," along with "you will see a G.I. specialist." With no staff identifying signature.
- 53) On the same day of February 5, 2023 Plaintiff submitted a kite to the Associate Warden of Operations (A.W.O.) at the time - Lt. Collier. The request involved not having a response regarding Plaintiff's lab results and not being able to see Defendant Marks.
- 54) Plaintiff expresses in his kite that he is, "suffering from swelling, pain and cramps in his abdomen, trouble breathing and unusual stools for the last 3 years. Also, he has yet to be diagnosed and have not been seen by a specialist."
- 55) Plaintiff received a response from Defendant Parks stating, "All your labs were normal or negative. We don't call people to medical to discuss normal labs," followed by - "I will put you in for a Doctors appointment. We are behind with Doctors Appointments."

- 56) The Defendant Parks, did not mention the traces of blood in Plaintiff's stool and acted as if he did not have something clearly wrong with him.
- 57) Plaintiff has been suffering from a history of Chronic G.I. pain; to which he has been unable to be properly treated at L.C.C. by medical staff. So a professional G.I. specialist is required to treat Plaintiff for his serious medical need.
- 58) A condition to which has been causing Plaintiff severe pain; that continues to develop and increase. The severe pain and discomfort has declined Plaintiff's quality of life; by causing a decline in productivity, socialization, mobility and exercise. For Plaintiff is in so much severe pain he would rather lay in bed. This causes him depression and anxiety. To which causes Plaintiff emotional distress.
- 59) On March 26, 2023, Plaintiff submitted a medical note to Defendant Parks stating that, "it has been six weeks since receiving the results of trace amounts of blood in my stool sample." "My symptoms have gotten worse to the point that some days I can't get out of bed." Plaintiff follows in clear frustration. "This type of negligence is unprofessional and your constant delay in properly diagnosing

and treating me is a clear 8th Amendment violation." Plaintiff asks when will he see the G.I. Specialist?

(60) Plaintiff receives a response from Defendant Parks stating, "First of all, I as a Nurse cannot diagnose any one. 2nd, we are not delaying anything, G.I. appointments take a few months to schedule, and lastly if you can't send a respectful Kite, then don't expect an answer."

(61) On July 8, 2023, Plaintiff submitted a medical Kite to Defendant Hultenschmidt explaining that the Plaintiff has been made aware that he tested positive for trace amounts of blood in his stool. He states that it has been four months since he was told he would see a G.I. specialist and asks what day will he see a specialist. He also expresses that he is still suffering from swelling, pain and cramps in L.U.Q. to R.U.Q., trouble breathing and unusual stools. Plaintiff states that he has been dealing with these symptoms for 3 years.

(62) Plaintiff receives a response from Defendant Hultenschmidt stating "your referral to the specialist was approved however the N.D.O.C. has not been able to find a provider who is seeing offenders. Unfortunately I have

no control over outside providers. We will continue to seek specialty care for you and you will be notified as soon as an appointment has been secured."

- 63) On July 23, 2023, Plaintiff submitted an Informal Grievance #20063155462 in an attempt to seek a administrative remedy. Attached to the Informal Grievance was medical Kites from 12/16/19, 8/7/22, 2/5/23, 3/26/23, 7/8/23 and a Kite from 1/10/21 from Defendant Garrett. These Kites were included in order to clearly show the Medical Department and L.C.C. staff have violated Plaintiffs 8th Amendment right by cruel and unusual punishment via deliberate indifference to Plaintiff's serious medical needs.
- 64) In the Grievance Plaintiff states, "I have been dealing with Gastro Intestinal problems since 2019. I am constantly in severe pain due to cramping and bloating in my abdomen, shortness of breath, chest pain and irregular bowel movements," It also refers to a medical kite as evidentiary support that Plaintiff was approved to see a G.I. specialist; but the N.D.O.C. has been unable to find a provider.
- 65) Plaintiff wants medical attention now because the N.D.O.C. Medical Department is his only

medical care provider and further delays could cause irreversable damage. Plaintiff quotes in Grievance "Please help me! This swelling I am experiencing is hindering my daily activities and severlly effecting my quality of life."

(66) Plaintiff's remedy sought was to immediately be sent to a G.I. specialist and get a clear diagnosis and specialist approved treatment plan. Plaintiff also sought monetary, compensatory and nominal damages-covered in the Administrative Claim form attached to the Grievance.

(67) On September 17, 2023, Plaintiff submitted a kite to the Medical Department regarding not receiving a response to the Informal Grievance # 20063155462 and that is has been over 45 days. Plaintiff quotes "Something is seriously wrong with me." Plaintiff pleads clearly in emotional distress, "The pain I am enduring is getting more severe and is seriously effecting my quality of life. Please give me the medical treatment needed to remedy my condition. Set my appointment for the G.I. specialist!"

(68) No response was ever received.

(69) On the same day of September 17, 2023, Plaintiff submitted a kite to the Grievance Coordinator stating, "I am suffering." Plaintiff

states that he has submitted several kites over this issue and that Grievance #20066155462 was submitted over 45 days ago. Plaintiff clearly pleads again in emotional distress, "something is seriously wrong with me." Plaintiff states he needs a G.I. specialist appointment, which he was already approved for. "Previous kites were mentioned in the Grievance," was also stated.

70) No response was ever received for this kite.

71) After no response to the Informal Grievance #20063155462, Plaintiff submits the Grievance in the First Level on October 2, 2023. Plaintiff mentions in the Grievance the failure to respond to his Informal Grievance and also that he has yet to be seen by medical for a resolution of his medical condition. Plaintiff states his symptoms have gotten worse and he continues to have blood in his stool.

Plaintiff also mentions both kites that were sent on September 17, 2023 that were not responded to.

72) Plaintiff states in frustration, in the First level grievance that, "This lack of action by the medical department and other staff involved to adequately diagnose and treat my symptoms has resulted in deliberate indifference. No person should have to go through

these great lengths like I have to beg for medical attention to aid me in the suffering im going through."

- 73) After no response to the first level Grievance #20063155412 within the 45 day time line, Plaintiff submits the Grievance in the second level on December 21, 2023. Within the Grievance - Plaintiff states that the L.C.C. Medical Department and staff failed to properly diagnose Plaintiff and send him to an outside specialist proving a violation of his constitutional rights.
- 74) The violation mentioned was an Eighth Amendment cruel and unusual punishment violation, because prison officials are Deliberatly Indifferent to the need if they know of and disregard an excessive risk to an Inmates health.
- 75) Plaintiff quotes clearly in emotional distress; "Since 2019 my medical condition has worsened to the point that I have constant abdominal and chest pain." "I also continue to have visable blood in my stool." Plaintiff also mentions the medical Kite filed in September with no response.
- 76) On January 17, 2024, Plaintiff received a response to the Informal Grievance #20063155412 from Defendant Hultenschmidt with a response stating "medical is working on scheduling you

to be seen by a doctor. I would also like to inform you that medical must triage, meaning medical must prioritize based on every patient's acuity/condition and so chances of being on a waiting list is possible, but we assure you that your medical needs are not being ignored. Please be very patient with us and eventually you will be called accordingly."

77) The Grievance was denied.

78) On April 21, 2024, Plaintiff submits a kite to the Grievance Coordinator to inform that the second level grievance #20063155462 is over due and also requesting a response.

79) No response to the over due second level grievance was ever received after the additional 60 day timeline. Ending the Grievance process and the administrative remedy has been exhausted.

80) On April 25, 2024, Plaintiff filed a Kite to Defendant Parks in an attempt of resolving the matter of receiving care for Plaintiff's serious medical need. Plaintiff states that he has been approved over a year ago to be seen by a G.I. specialist and he was told over 3 months ago after filing a grievance that the Plaintiff would be seen by the specialist in about 6 weeks.

81) In over double that time - Plaintiff states in frustration and clear emotional distress, "I

am forced to suffer without proper care despite knowledge of my need to be treated. Plaintiff also expressed understanding in the Kite that it may be difficult to provide doctors, but "it's been far too long for me to be still in the same position."

82) Plaintiff asks (pleads) to the D.O.N., to please make sure that Plaintiff is scheduled to be treated soon. For Plaintiff quotes, "This is physically, mentally and emotionally draining. Please Help!"

83) Plaintiff never received a response from Defendant Parks.

84) On October 18, 2024, Plaintiff received a response from the over due First Level Grievance #20063155462 from Defendant Parks. She denied the Grievance and stated, "We have no control over providers on the outside and if they or when they want to schedule inmates, we must follow their schedule. We have continued to send requests for an appointment and have not heard back, if you would like to see Dr. Marks again and discuss more labs, please turn in a Kite."

85) On December 12, 2024, Plaintiff received the overdue Second Level Grievance #20063155462. The respondent was Defendant Williams. The Grievance states "you were scheduled on

2/19/24 to go see the G.I. specialist; however it was canceled due to safety and security because you new about the date you were going to see the specialist. Numerous requests to the G.I. clinic were sent but the N.D.O.C. scheduler was told that the G.I. clinic is about a year behind to see patients. We assure you that the L.C.C. scheduler is doing her best to get a schedule to see the G.I. specialist. D.O.N. Parks or designee will inform you if the schedule has been made."

- 86) The Grievance was considered resolved; even though Plaintiff is still suffering from his severe and serious medical condition. To which causes Plaintiff pain on a regular basis - continuing to lower the quality of his life and causes him anxiety, depression and emotional distress. The Plaintiff has also yet to see the G.I. specialist.
- 87) Plaintiff was never aware of the appointment that was scheduled on February 19, 2024 and has not been re-scheduled since then.

D. CAUSE(S) OF ACTION

CLAIM 1

1. State the constitutional or other federal civil right that was violated: Eighth Amendment violation: cruel and unusual punishment, Deliberate Indifference to serious medical need.

2. Claim 1. Identify the issue involved. Check only one. State additional issues in separate claims.

☐ Basic necessities

☒ Medical care

☐ Mail

☐ Disciplinary proceedings

☐ Exercise of religion

☐ Property

☐ Access to the court

☐ Excessive force by officer

☐ Retaliation

☐ Threat to safety

☐ Other: _____

3. Date(s) or date range of when the violation occurred: 2/5/23, 7/8/23, 9/17/23, 2/19/24, 1/17/24, 4/25/24, 10/18/24, 12/12/24

4. Supporting Facts: State as briefly as possible the FACTS supporting Claim 1. Describe exactly what each specific defendant (by name) did to violate your rights. State the facts clearly in your own words without citing legal authority or argument.

88) Plaintiff incorporates paragraph 1-87 as if fully described here in.

89) Plaintiff shows factually with evidentiary support that he has suffered from severe and progressive G.I. problems since 2019. Medical staff at L.C.C. and other Defendants are aware of Plaintiff's serious medical need.

90) This progressive, serious G.I. condition has continued to grow in pain and severity - to where Plaintiff has blood in his stool. Since approximately February of 2023, Plaintiff has been waiting to see a G.I. specialist.

91) The Defendants are aware of Plaintiff's condition and fail to act in responding to Plaintiff's serious medical need. To which continues to cause Plaintiff to suffer physically and mentally. This is also furthering the risk of irreparable damage to plaintiff. For Plaintiff as an Inmate has no other option of

medical attention except through the N.D.O.C. and its employees.

92) Plaintiff alleges that Defendant Parks, Marks, Hultenschmidt, Williams and John/Jane Does 1-10 are deliberately indifferent to Plaintiff for failing to act towards Plaintiff's serious medical need. Acting with cruel and unusual treatment towards Plaintiff is violating his constitutional rights and effects public interest in a negative manner. Also causing pain, suffering and irreparable damage.

93) Plaintiff alleges Defendant Parks, Marks, Hultenschmidt, Williams and John/Jane does 1-10 are deliberately indifferent to Plaintiff's serious medical need by failing to act due to monetary cost of a G.I. specialist and required treatment. Causing pain, suffering and irreparable damage to Plaintiff against public interest.

94) Plaintiff alleges Defendant Williams is deliberately indifferent to Plaintiff's serious medical need-because as Medical Director for the N.D.O.C., he has the ability to ensure proper and adequate medical care is provided. But he does not act; causing the Plaintiff pain, suffering and irreparable damage. Acting with cruel and unusual punishment violating Plaintiff's constitutional rights and against public interest.

CLAIM 2

1. State the constitutional or other federal civil right that was violated: Eighth Amendment violation: Cruel and unusual punishment: Delay/Denial of adequate medical care.
2. Claim 2. Identify the issue involved. Check only one. State additional issues in separate claims.
- | | | |
|---|---|--------------------------------------|
| <input type="checkbox"/> Basic necessities | <input checked="" type="checkbox"/> Medical care | <input type="checkbox"/> Mail |
| <input type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Exercise of religion | <input type="checkbox"/> Property |
| <input type="checkbox"/> Access to the court | <input type="checkbox"/> Excessive force by officer | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____ | |

3. Date(s) or date range of when the violation occurred: 2/5/23, 7/8/23, 1/17/24, 2/19/24 : 12/12/24, ongoing

4. Supporting Facts: State as briefly as possible the FACTS supporting Claim 2. Describe exactly what each specific defendant (by name) did to violate your rights. State the facts clearly in your own words without citing legal authority or argument.

88) Plaintiff incorporates paragraphs 1-87 as if fully described here in.

89) Plaintiff shows factually with evidentiary support that he is suffering because of a constant delay/denial of adequate medical care; for a severe and progressive medical condition that started in 2019. To which defendants have been made fully aware of during the course of time.

90) Plaintiff has been waiting to see a G.I. specialist since approximately February of 2023; since it was discovered that Plaintiff had tested positive for trace amounts of blood in his stool.

91) The reason Plaintiff was referred to an outside specialist is because of the L.C.C. medical department being incapable of providing a proper diagnoses for Plaintiff - for his serious medical condition. To which causes him to suffer and progressively get worse.

92) Defendants claim Plaintiff did have an appointment

to see a G.I. specialist but the appointment was canceled due to safety and security concerns because Plaintiff was aware of the appointment. Plaintiff was not and could not have been aware of said appointment.

93) Defendants also stated that the G.I. clinic is "about a year behind to see patients," so plaintiff would continue to be delayed/denied adequate medical care for possibly another year to three years.

94) Plaintiff alleges Defendants Parks, Marks, Hultenschmidt, Williams and John-Jane Doe 1-10 are delaying/denying adequate medical care for his serious medical need. Causing cruel and unusual punishment toward Plaintiff, violating his constitutional rights and is against public interest. Causing pain, suffering and irreparable damage to Plaintiff.

95) Plaintiff alleges Defendants Parks, Marks, Hultenschmidt, Williams and John-Jane Doe 1-10 are delaying/denying adequate medical care to plaintiff because of the monetary cost of a G.I. specialist and other required treatment. Causing pain, suffering and irreparable damage to Plaintiff; violating his constitutional rights and acting against public interest.

96) Plaintiff alleges Defendant Williams is Delaying/Denying adequate medical care - although he has the ability as Medical Director for N.D.O.C. to ensure proper and adequate medical care

is provided. This Delay/Denial violates Plaintiffs' constitutional rights and is against public interests causing Plaintiff pain, suffering and irreparable damage.

E. PREVIOUS LAWSUITS

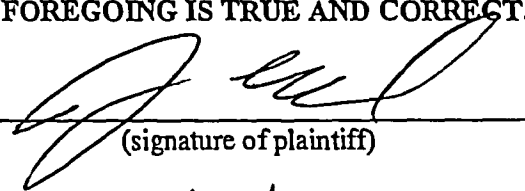
1. Have you filed any other lawsuits while incarcerated? ☐ Yes ☒ No
2. Has this Court or any other court designated you as subject to "three strikes" under 28 U.S.C. § 1915(g)? ☐ Yes ☒ No
3. If you have "three strikes" under 28 U.S.C. § 1915(g), does this complaint demonstrate that you are "under imminent danger of serious physical injury?" ☐ Yes ☐ No

F. REQUEST FOR RELIEF

I believe I am entitled to the following relief: A) A declaration that the facts and omission described here in violated Plaintiffs rights under the Constitution of the United States.
B) Plaintiff claims that they are entitled to nominal damages in the amount of "10,000" dollars against each Defendant jointly and severally. C) Plaintiff claims that they are entitled to compensatory damages

I understand that a false statement or answer to any question in this complaint will subject me to penalties of perjury. **I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT.** See 28 U.S.C. § 1746 and 18 U.S.C. § 1621.

 (name of person who prepared or helped
 prepare this complaint if not the plaintiff)


 (signature of plaintiff)

01/10/25
 (date)

ADDITIONAL PAGES

You must answer all questions concisely in the proper space on the form. Your complaint may not be more than 30 pages long. It is not necessary to attach exhibits or affidavits to the complaint or any amended complaint. Rather, the complaint or any amended complaint must sufficiently state the facts and claims without reference to exhibits or affidavits. If you need to file a complaint that is more than 30 pages long, you must file a motion seeking permission to exceed the page limit and explain the reasons that support the need to exceed 30 pages in length.

in the amount of "10,000" dollars against each Defendant jointly and severally.

D) Injunction relief following be provided by the N.D.O.C.

1) Providing a G.I. specialist to Plaintiff.

2) Plaintiff receive the treatment he is in need of.

3) That the Plaintiff be provided all care that is recommended by the G.I. specialist; with no interference.

E) Plaintiff's cost in this suit.

F) Any and all additional relief this court deems, just, proper and equitable.